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THE SECOND, THIRD, AND FOURTH VŒUX OF THE CONFERENCE

Among the formal utterances which are embodied in the final act of the Second Peace Conference at The Hague three *vœux*, or expressions of opinion, are commended to the signatory powers. Two of these relate to the commercial and industrial relations between belligerent governments and neutral residents of belligerent or occupied territory; the third has to do with the preparation of a code of laws governing maritime warfare. As finally adopted the text of the *vœux* governing neutral relations was given the following form:

The conference expresses the opinion that, in case of war, the responsible authorities, civil as well as military, should make it their special duty to insure and safeguard the maintenance of pacific relations, more especially of the commercial and industrial relations between the inhabitants of the belligerent states and neutral countries.

The conference expresses the opinion that the powers should regulate, by special treaties, the position, as regards military charges, of foreigners residing within their territories.

The foregoing utterances represent the final action of the conference in respect to a project submitted by the imperial German delegation, which had for its object to increase, to some extent, the immunities accorded by belligerent governments to neutral residents and their property in belligerent or occupied territory. Under existing rules neutral persons are exempt from compulsory participation, as combatants, in the operations of war; but their property receives no special consideration due to the fact of its neutral ownership, and is subject to all the burdens and imposts, ordinary or extraordinary, which a belligerent may find it necessary to impose in time of war, either in his own territory or in the territory of the enemy which is in his military occupation.

It was the purpose of the German project to modify the existing rules by giving neutral property an immunity from war taxes and imposts, and by requiring prompt payment to be made for such prop-

erty when taken for public use in belligerent territory, or when taken by way of requisition in territory in belligerent military occupation. These propositions were plainly calculated to relieve neutral subjects, and especially their property in the nature of stocks of goods and merchandise, from the burdens and hardships of war in which, as neutral individuals, they had neither part nor interest. The project was conceived in a humane spirit and would have operated to restrict the operations of an existing war to those chiefly concerned in its prosecution — the belligerent states and their subjects — and to accord a corresponding immunity from the incidence of its burdens in behalf of neutral property situated in belligerent or occupied territory.

As a power having a permanently neutral policy, and constantly desirous of advancing neutral interests in every proper way, the proposition was warmly supported by the United States. It also received important and powerful support from other quarters, which did not avail, however, to secure its adoption as a conventional rule in face of the opposition of some of the more important maritime powers.

The public opinion of the civilized world does not yet sufficiently realize to what a severe strain the delicate mechanism of international commerce will be exposed in future wars. The tendency of modern industry is to manufacture on a large scale, involving the accumulation of enormous stocks of manufactured products and a corresponding distribution through the instrumentality of foreign commerce. Large stocks of goods thus accumulate in the hands of distributing agents in foreign countries, who are themselves neutral in a majority of cases, and whose property is neutral property. An immediate result of the confiscation of these goods by a belligerent in time of war, either by way of war imposts or by means of requisitions in occupied territory, will be to seriously diminish the resources and disturb the credit of their neutral residents. How slight a disturbance is necessary to bring on an international panic is only too well known in the money centers of the world. It was to eliminate this as a disturbing factor in the world-wide economic and business relations which now prevail that the proposition was advanced

by Germany and advocated by the United States. The weak and nerveless result is embodied in the foregoing expressions of opinion. That belligerents will voluntarily, and in the absence of obligatory treaty stipulation, diminish the burdens to which neutral residents and their property are now subject transcends belief. It can only be said that an opportunity presented itself to the conference to modify the severity of the rules governing the relations between belligerent states and their neutral residents, in such a way as to contribute materially to the security of the general commercial and business interests of the world at a time when they are subjected to a great and dangerous tension. It is greatly to be regretted that the opportunity was not more fully taken advantage of.

The final expression of desire to which the conference gave utterance in its final act is embodied in the following *vœux*:

The conference expresses the opinion that the preparation of regulations relative to the laws and customs of naval war should figure in the program of the next conference, and that in any case the powers may apply, as far as possible, to war by sea the principles of the convention relative to the laws and customs of war on land.

There has been a substantial consensus of opinion, since the adoption of the rules of war on land in 1899, that the rules formulated with such painstaking care had their chief, if not their sole, application to the operations of war on *terra firma*. It has been generally conceded that if naval forces act on shore, either independently or in cooperation with land armies, their undertakings must be governed by the international rules of 1899 and 1907. But that operations, confessedly naval in character and carried on by ships and fleets, are governed by those rules has not been conceded. The private property of an enemy on land, for example, may only be taken by way of requisition, and that which is not taken must be protected. At sea it is admittedly liable to capture, save as protected by the rules of the Declaration of Paris. The incidents of battles, sieges, and bombardments on land are subject to the operation of well-defined rules, none of which apply to the corresponding operations of naval warfare, and the general fear that coast cities might be made the subject of ransom, under a threat of bombardment, has been sufficient to secure the adoption of conventional stipulations expressly forbidding it.

Considerable difficulty will be encountered in the preparation of such a set of rules, as there is some uncertainty of opinion as to whether they should include not merely the operations of hostile fleets and ships, but rules governing the rights of search and capture at sea, together with the establishment and maintenance of naval blockades. It should also be remembered that naval hostilities are, in some of their important aspects, so entirely different from corresponding undertakings on land as to give occasion for special rules for their regulation and government. There is no noncombatant population to be protected, there are no villages or habitations in which naval forces may be quartered, and the high seas can not be made the subject of belligerent occupation. On the other hand, neutral property which is contraband of war, or is engaged in an attempt to violate a blockade, is unquestionably liable to capture and confiscation. But there *are* rules of war at sea, which are generally known and applied by belligerents in the conduct of their naval operations; it is also generally conceded that they are simpler and less numerous and technical than those regulating military operations on land, but it is difficult to formulate them in the present shifting conditions of naval warfare, and they touch certain large subjects — contraband, blockade, the right of search, and neutral trade with belligerent fleets and armies, as to which conflicting national interests make it difficult, if not impossible, to enable an agreement to be reached at the present time.

The conference, in the agreements which it was able to reach on maritime subjects, went as far in the direction of humanity and consideration for neutral interests as is warranted by the present state of international public opinion. To have attempted more would have menaced the results which had already been made the subject of tentative agreement or of conventional stipulation.

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